



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### **PIEDMONT REGIONAL OFFICE**

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

## **WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO 623 LANDFILL, INC.**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and 623 Landfill, Inc., for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "623 Landfill" means 623 Landfill, Inc, a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the 623 Construction/Demolition/Debris Landfill, located at 1961 Ashland Road, in Goochland County, Virginia and operating under DEQ Solid Waste Permit No. 506.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VSWMR" means the Virginia Solid Waste Management Regulations 9 VAC 20-80-10 *et seq.*

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The 623 Landfill ("Facility") is a "Construction/Demolition/Debris Landfill" ("CDD Landfill") as that term is defined in 9 VAC 20-80-10 of the VSWMR. The facility is located in Rockville, Virginia, and is owned by 623 Landfill, Inc.
2. 623 Landfill, Inc. currently operates under DEQ Solid Waste Permit Number 506 ("SWP 506").
3. On July 12, 2005, DEQ staff conducted an inspection of the Facility. The inspection and a subsequent records review revealed the following:
  - a. The new surety bond for closure and post-closure care financial assurance was not received by the Department 30 days prior to the expiration of the existing trust fund, as required by 9 VAC 20-70-160.A.1 of the VSWMR.
  - b. Waste screening records had not been completed since the previous inspection on April 21, 2005, as required by the "Control Program Random Waste Inspection Procedures" found in Module II, Appendix II, Attachment B of SWP 506. Section 9 VAC 20-80-240.B of the VSWMR requires that the permitted facility be operated in accordance with the permit issued by DEQ.
  - c. The Facility accepted approximately 100 cubic yards of biofilter material discarded by a nearby industrial facility. The biofilter material was used during antifreeze processing and constitutes "industrial waste", as that term is defined in 9 VAC 20-80-10 of the VSWMR. Permit Modules II.I.V.B.1 and IV.I.1.B of SWP 506 do not authorize the acceptance of industrial waste by this facility. Section 9 VAC 20-80-240.B of the VSWMR requires that the permitted facility be operated in accordance with the permit issued by DEQ. Section 9 VAC 20-80-260 of the VSWMR prohibits the acceptance of any waste other than construction, demolition, or debris waste by CDD Landfills.
4. On July 20, 2005 a fire occurred in the vegetative waste cell. Facility staff notified DEQ by telephone within 24 hours of the event, however did not provide a written follow-up to this notification within 5 days of the event, as required by 9 VAC 20-80-570.C.3 of the VSWMR.

5. On September 1, 2005, a Notice of Violation ("NOV") No. 2005-09-PRO-601 was issued to 623 Landfill, Inc. for the violations of SWP 506 and the VSWMR listed in paragraphs 3 and 4 above.
6. On September 27, 2005, a meeting was held between representatives of the Facility and DEQ. During that meeting, the facility demonstrated to DEQ that it has resolved the violations set forth in the NOV.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders 623 Landfill, Inc., and 623 Landfill, Inc. voluntarily agrees to pay a civil charge of \$6,020 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, 623 Landfill, Inc. shall include its Federal Identification Number.

#### **SECTION E: Administrative Provisions**


1. The Board may modify, rewrite, or amend the Order with the consent of 623 Landfill, Inc. for good cause shown by 623 Landfill, Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to 623 Landfill, Inc. by DEQ on September 1, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, 623 Landfill, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. 623 Landfill, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. 623 Landfill, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by 623 Landfill, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. 623 Landfill, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. 623 Landfill, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. 623 Landfill, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

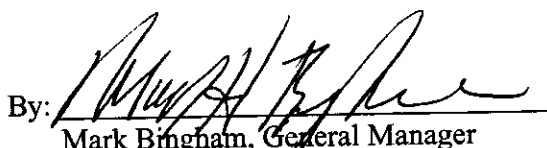
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and 623 Landfill, Inc. Notwithstanding the foregoing, 623 Landfill, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to 623 Landfill, Inc.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve 623 Landfill, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, 623 Landfill, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21<sup>st</sup> day of April, 2006.

  
David K. Paylor, Director  
Department of Environmental Quality

623 Landfill, Inc. voluntarily agrees to the issuance of this Order.

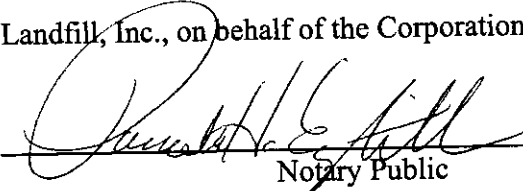
Date: 3/2/06

By:   
Mark Bingham, General Manager  
623 Landfill, Inc.

Commonwealth/State of Virginia  
City/County of Henrico

The foregoing document was signed and acknowledged before me this 3 day of March, 2006, by Mark Bingham, who is  
(Name)

Gen. Mgr. of 623 Landfill, Inc., on behalf of the Corporation.  
(Title)

  
Notary Public

My commission expires: 12/31/06